

Zoning Administrator Hearing

Minutes



**John S. Gendron
Hearing Officer**

June 22, 2010 – 1:30 p.m.

View Conference Room, 2nd Floor
55 North Center Street
Mesa, Arizona, 85201

Staff Present

Angelica Guevara
Tom Ellsworth
Mia Lozano-Helland

Others Present

Bryan Rudd Joe Cooper
Dan Filuk Jeffery Guyette
Tim Nielsen Rulon Anderson
Rudi Sinykin Tana Nichols
Rachel & Raymond Gonzalez
Pamela & Richard Rzendziar
Roger Abell

CASES:

Case No.: ZA10-019

Location: 303 East Jacaranda Street

Subject: Requesting a variance to allow an attached structure to encroach into the side yard in the R1-6 zoning district. (PLN2010-00170)

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted.*
2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Summary: Raymond Gonzalez represented the case and answered questions related to the property. Mr. Gendron asked staff member Lesley Davis about the existing setbacks of the house. He further asked Mr. Gonzalez if he has received any contact from his neighbors regarding this case, Mr. Gonzalez responded no. Ms. Davis provided the staff report and recommendation. There were no citizens present wishing to comment on this case. Mr. Gendron approved ZA10-019 with staff conditions.

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Findings:

- 1.1** Justification for this variance is related to the existing home encroaching one foot into the side yard setback and the shape of the lot, which tapers and is narrower at the front. The dimension in the rear is approximately 68-feet, while the front dimension is approximately 58-feet.
- 1.2** Current code requires a minimum side yard setback of 5-feet on one side and 10-feet on the other. The subdivision was developed in the early to mid 1970's and many of the homes in the neighborhood have been constructed closer than 5-feet from the property line on one side. The two-foot encroachment allows the applicant to provide two covered parking spaces, which is also common throughout this neighborhood.
- 1.3** The home was constructed with a single car garage. The applicant is constructing a carport that will allow two, side by side, 9-foot x 18-foot parking spaces to comply with current code requirements. The new carport does not extend beyond the line of the existing home, but due to the fact that the lot is narrower in the front than the rear, the carport encroaches 2-feet at the front corner. A carport that complied with setback requirements in the same location, would not be able to accommodate covering the required two, 9-foot x 18-foot spaces`` .
- 1.4** There were special circumstances that were pre-existing and not self-imposed. Strict compliance with the Code required the property owner to adhere to the 5-foot side setback, depriving the property of privileges enjoyed by other properties in the same zoning district. This variance does not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property

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Case No.: ZA10-020

Location: 5245 East Southern Avenue

Subject: Requesting a Special Use Permit to allow a Commercial Communication tower to exceed the maximum height allowed in the C-2 zoning district. (PLN2010-00144)

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The antennas shall not exceed 4'-4" in length, 1'-2" in width, and 4" in depth.*
3. *The microwave dishes shall not exceed 2'-2" in diameter.*
4. *The antennas will be screened with a minimum of 55 palm fronds.*
5. *The antennas and microwave dishes shall be painted to match the color of the faux palm fronds.*
6. *The antenna standoff assembly shall not extend more than 8" from the pole.*
7. *The monopalm tower or "trunk" shall be clad material resembling the color and texture of a natural palm tree.*
8. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
9. *The operator of the monopalm shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problems.*

Summary: Rulon Anderson represented the case and stated he had nothing to add to the file. Mr. Gendron asked the applicant if there were any opportunities for co-locations in the area. Mr. Anderson responded no. Staff member Angelica Guevara provided the staff report and recommendation. There were no citizens present wishing to comment on this case. Mr. Gendron approved ZA10-020 with staff conditions.

Findings:

- 1.1 The Special Use Permit (SUP) allows the placement of a 65'-foot monopalm commercial communication tower located within an existing group commercial center. The applicant will install a stealth monopalm design in order to minimize the visual impact.
- 1.2 The applicant notified all property owners within 300 feet of the request and no comments or concerns were received.
- 1.3 The Monopalm is 65 feet high. The array consists of three sectors, with three antennas and three microwave dishes. The antennas are 4' 2" in length, 1' 1" wide, and 4" deep, the microwave dishes are 2' 2". A condition of approval was added requiring the antennas and microwave dishes be painted to match the color of the faux palm branches.
- 1.4 The applicant is constructing a 6'x10' equipment enclosure to screen the equipment cabinet. The

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enclosure is adjacent to the existing solid waste enclosure and constructed to match the material, color and texture of the enclosure.

- 1.5** The Monopalm complies with the Commercial Communications Towers Guidelines at approximately 332' 10" feet from Southern Avenue and 141' 3" from the nearest residential property to the south. These setbacks exceed the 1:1 setback ratio from arterial streets and 2:1 setback ratio from residential districts.
- 1.6** The SUP will raise the height of the tower to 65'. The additional height is needed in order to clear the height of existing buildings to provide service to the area. There are no existing structures within the area that provide an opportunity for the co-location of the array.

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Case No.: ZA10-21

Location: 1425 South Greenfield Road

Subject: Requesting a Substantial Conformance Improvement Permit to allow a medical office addition in the O-S zoning district. (PLN2010-00155)

Decision: Approved with the following conditions:

- 1. Compliance with the site plan submitted.*
- 2. Replace any landscaping on the property that has died or is not thriving.*
- 3. Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Summary: Tim Neilsen represented the case and summarized the request. Mr. Gendron asked staff member Lesley Davis questions related to the setbacks from the right-of-way. A brief discussion ensued regarding the previous history of the property and prior cases. Ms. Davis provided the staff report and recommendation. There were no citizens present wishing to comment on this case. Mr. Gendron approved ZA10-021 with staff conditions.

Findings:

- 1.1** The site is located on the east side of Greenfield, on the north side of Holmes, just north of US60. The original office building was constructed in the early 1990's with a 10-foot setback. A second building was added in 2006 with a 20-foot setback. A SCIP was granted in 2006 (ZA06-103) to accommodate deviations to the setbacks along Greenfield for the new building as well as the existing building. The SCIP also sanctioned the 10-foot setback adjacent to the R-3 property to the north and the reduction in required landscape islands in the parking field.
- 1.2** This SCIP is for a 3,000 s.f. addition to the original medical office building on the north. The site is of sufficient size to accommodate the addition and required parking if the addition is constructed between the existing buildings with a 15-foot building separation. Any other location on the site requires the demolition of the existing required parking.
- 1.3** Compliance with current Code requirements would result in significant alteration or demolition of the existing building. Consequently, the setback is commensurate with existing setbacks for the area and on this site.
- 1.4** With exception to the setbacks, parking lot landscape islands and with the building separation, the development complies substantially with current Code requirements.
- 1.5** The building design of the addition matches the design of the existing building. The addition location is in an existing landscape area. This landscape area is sparsely landscaped. The focus was placed on the existing courtyard space for the two buildings, located east of the new addition. This courtyard area will remain. The applicant added pedestrian access between the buildings out to Greenfield Road and added new landscaping along that pedestrian path

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between the buildings.

- 1.6** The project, including recommended conditions of approval provides substantial conformance with current Code. In addition, all landscaping that has died or is not thriving will be replaced to comply with the previously approved landscape plans for the site.

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Case No.: ZA10-022

Location: 848 North Horne

Subject: Requesting a Special Use Permit to allow a Commercial Communication Tower in the R1-9 zoning district. (PLN2010-00151)

Decision: Approved with the following conditions:

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The monopalm shall have a maximum height of sixty-five (65') to the top of the palm fronds, the pole and antenna height will be sixty-feet (60').*
3. *The antennas shall not exceed 4'4" in length, 1'1" in width, and 4" in depth.*
4. *The microwave dishes shall not exceed 2'-2" in diameter.*
5. *The antennas will be screened with a minimum of 55 palm fronds.*
6. *The antennas shall be painted to match the color of the palm fronds.*
7. *The antenna standoff assembly shall not extend more than 8" from the pole.*
8. *The operator of the Monopalm shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problems.*
9. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*

Summary: Rulon Anderson represented the case and commented on photos submitted. Tim Lillo presented the staff report and the staff recommendation. Mr. Gendron asked if staff had received any calls from the public regarding this case, Mr. Lillo responded no. There were no citizens present wishing to comment on this case. Mr. Gendron approved ZA10-022 with staff conditions.

Findings:

- 1.1 This Special Use Permit (SUP) allows the placement of a 65-foot high commercial communication tower on an existing Mesa Public School property. The applicant is installing a Monopalm rather than a typical monopole so that there will be less impact on the neighborhood.
- 1.2 The applicant notified all property owners within 300-feet of the request. Staff was not contacted by any property owners regarding the project.
- 1.3 The Monopalm is 65' feet high and the array consists of three sectors, with three antennas, three daps, and three microwave dishes. The antennas measure 4' 2" in length, 1' 1" wide, and 4" deep. The microwaves dishes are 2'2" in diameter. A condition of approval was added requiring that the antennas and microwave dishes be painted to match the color of the faux palm branches and requiring a minimum of 55 palm fronds to screen the antennas.
- 1.4 The applicant is installing an equipment cabinet screened with an 8' high masonry screen wall.

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The elevation drawing shows a 6' wide tube steel gate with metal backing. The gate is painted to match the screen wall.

- 1.5** The Monopalm is located at the southwest corner of the parking lot adjacent to the existing 26' tall school building. The Monopalm is located within the 10' x 18' fenced lease area .
- 1.6** The Monopalm complies with the Commercial Communications Towers Guidelines in that it is over 430 feet from the nearest residential property to the South. These setbacks exceed the 2:1 setback ratio from residential districts.
- 1.7** The Monopalm is located next to other mature palm trees within the parking lot area and the school grounds. As a result, the Monopalm is compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

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- Case No.: ZA10-023
- Location: 447, 453, and 459 West 1st Avenue
- Subject: Requesting a Development Incentive Permit (DIP) to allow development of single family residences in the R-2 zoning district. (PLN2010-00166))
- Decision: Approved with the following conditions:
1. *Compliance with the site plan submitted except as modified by the conditions below.*
 2. *Compliance with Residential Development Guidelines.*
 3. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
- Summary: Tana Nichols represented the case and answered questions from Mr. Gendron. Discussion ensued regarding the size of the lots and a previous variance that was approved for the width of the lots.
- Roger Abell, Tempe, AZ commented on the proposed setbacks, the size of the houses and the orientation to 1st Ave rather than Vineyard. He suggested that townhomes would be a better development idea. Ms. Nichols responded that were they to build townhomes with HOA fees, the properties would no longer be affordable for their families.
- Jeff Guyette, Tolleson, AZ praised the project and felt that Habitat for Humanity does a great service to the community.
- Staff member Angelica Guevara provided the staff report, recommendation and answered questions from Mr. Gendron. Mr. Gendron approved ZA10-023 with staff conditions.
- Findings:
- 1.1 This Development Incentive Permit (DIP) allows the development of single family homes on three (3) 5,968 square-foot lots. The homes are energy efficient, one-story, 1,324 square-feet containing 3 bedrooms with a front porch and a rear patio. A DIP is required to allow the development without full compliance with current development standards. The three lots are located in area surrounded by single family homes and multi-family uses.
 - 1.2 Justification for the DIP includes: 1) The project is consistent with the General Plan and Zoning Ordinance; 2) The incentives permit development commensurate with existing development along the north and south sides of 1st Avenue between Country Club Drive and Date; and 3) the incentives are necessary to develop the properties with single family homes, due to the existence of the narrow and long lots; 4) The architectural elements, construction and landscape materials, and other site improvements meet the intent of the Zoning Codes; 5) The incentives will result in development that is compatible with, and not detrimental to, adjacent properties

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and neighborhoods.

- 1.3** Of concern to staff was the site and floor plans provided for each of the lots related to the design that placed the garage as the primary streetscape. The front porch is recessed approximately 15' behind the garage. This concern was discussed with the applicant as well as various options for designing the floor plan. The applicant indicated that they would like to modify the floor plan but budgetary constraints did not allow for that at this time or within the time-frame they have. Staff discussed other options with the applicant that would encourage an active front yard. The applicant provided an illustration showing a low courtyard wall with chairs/benches, hardscape and landscape material to create an active courtyard area that extends the uncovered porch closer to the street. The applicant also expressed a commitment to continue to explore other options for creating an active front yard.
- 1.4** A secondary concern with the exterior elevations related to compliance with the Residential Development Guidelines. The applicant will make minor adjustments to the side elevations by extending the wainscot popout to the fence return. Staff added a condition of approval to address this concern.
- 1.5** The site is consistent with the definition of a "by-passed" parcel and is eligible for review of a DIP. The development is consistent with the General Plan designation and is an allowed use in the R--2 zoning district. The deviations are necessary to accommodate the development of single family homes on these lots that have remained vacant in area that has been developed for many years. The homes are commensurate with or exceed the conformance of similar uses and structures in the vicinity of the request. The architecture and landscape design are consistent with the intent of the Residential Development Guidelines, with the conditions recommended by staff.
- 1.6** The area of each lot is consistent with the width, depth, setbacks, and age of surrounding development. The lots meet the criteria to be considered a by-passed parcel. Sufficient justification existed to permit the reductions in lot size, lot width, and setbacks as shown on the site plan.

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Case No.: ZA10-024

Location: 1915 South Power Road

Subject: Requesting: 1) a Special Use Permit; and 2) a Substantial Conformance Improvement Permit (SCIP); both to allow the development of an automobile service station in the C-2-DMP zoning district. (PLN2010-00102)

Decision: Approved with the following conditions:

1. *Compliance with the site and landscape plan submitted except as modified by the conditions below.*
2. *Provide foundation base as required by §11-15-3-C.*
3. *Replace any landscaping on the property owned by Fry's Food Stores that has died or is not thriving.*
4. *Compliance with all requirements of the Design Review Board.*
5. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Jeff Guyette for Fry's Food & Drug, 500 S. 99th Ave Tolleson, AZ represented the case and summarized the request. Mr. Gendron asked about the original site development for the existing grocery store and shopping center. Staff member Lesley Davis commented that the approved site plan (Z95-10) included a Pad D for this location. Mr. Guyette provided details of the fuel center design. Discussion ensued regarding the pad site and previous site plan approvals.

Rick Zenjon, 6807 E. Baseline Rd owns a gas station across the street from this project had concerns that there are already enough gas stations in the immediate area. He further stated that he may not have purchased his business had he known that another gas station could be developed across the street. Mr. Gendron asked Mr. Zenjon about his business location.

Rudi Sinykin, owner of the Subway at 1959 S. Power Rd., had concerns with the amount of parking being eliminated by the fueling station. He stated that his customers and the other tenants adjacent to him will no longer have convenient parking. He suggested that by moving the project 25 to 50 feet east, parking spaces could be retained.

Mr. Guyette explained that the shopping center has multiple owners, various property lines and easements. He stated that he understood the concerns, but the location could not be changed.

Mr. Gendron asked Ms. Davis if the parking amounts would meet code requirements after this project is completed. Ms. Davis replied that the Fry's store is currently over parked and will still have enough parking. Ms. Davis then provided the staff report and recommendation. Mr. Gendron explained to the attendees the appeal process to the decision he made. Mr. Gendron approved ZA010-024 with staff conditions.

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Findings:

- 1.1** This development consists of a fueling station that is an extension of the existing Fry's grocery store. The applicant will install a total of seven fuel dispensers, two underground storage tanks, a 4,840 square foot canopy, and a 112 square foot cashier kiosk. The facility is operated and managed by personnel from the Fry's grocery store.
- 1.2** Design Review was required for this project to ensure that the kiosk and canopy are architecturally consistent with the existing shopping center. The applicant had two 'Work Sessions' with the Board and worked with staff to finalize their elevations. The Planning and Zoning Board approved a Site Plan Modification for this site at the June 16, 2010 hearing.
- 1.3** This project consisted of two parts; including a Special Use Permit for the operation of an automobile service station in the C-2 zoning district, and a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of a nonconforming site.
- 1.4** The service station is located in a commercial development consisting of a grocery store strip retail building. The uses adjacent to the development consist of additional retail uses, which are compatible with the service station. The service station is also compatible with the General Plan, as the designation of Neighborhood Commercial supports retail uses.
- 1.5** Given the complimentary adjacent land uses and site design, the automobile service station is compatible with, and not detrimental to, surrounding properties.
- 1.6** The automobile service facility is located on a pad site within a larger commercial development. The existing overall development was approved by City Council in 1995 (Case#Z95-10) and does not comply with current Code requirements in regards to landscape and building setbacks, parking lot landscape islands, and foundation base. This new development does, however, comply substantially with current Code requirements.
- 1.7** The existing overall development could not be brought into compliance with current Code without creating additional nonconformities related to parking and site circulation, or without the demolition of existing buildings. As a result, the development qualifies for a Substantial Conformance Improvement Permit.
- 1.8** There was a lack of foundation base shown around the proposed kiosk. The foundation base can be a combination of hardscape and landscape plant material, which may include potted plants. Such items will make the foundation base area more attractive, while complying with the intent of the foundation base planting requirements (§11-15-3-C). A Condition of Approval was created to address this concern. (See condition 2.)
- 1.9** This project includes recommended conditions of approval providing substantial conformance with current Code. In addition, all dead and dying landscape will be replaced in an effort to bring the rest of the site closer to compliance with current Code requirements.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at 3:10 p.m.

The cases for this hearing were digitally recorded and are available upon request.

Respectfully submitted,

John S. Gendron
Hearing Officer

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